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SUPREME COURT, U.S.

No. 81-5634

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1981

RICKY WAYNE TISON and
RAYMOND CURTIS TISON,

Petitioners

v.

STATE OF ARIZONA,

Respondent

JOINT PETITION FOR WRITS OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

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QUESTION PRESENTED

1. Is it constitutional for Arizona to execute the petitioners for aiding and abetting in a felony murder when -- in the words of the Arizona Supreme Court -- they "did not specifically intend that the [victims] die, ... did not plot in advance that these homicides would take place, or ... did not actually pull the triggers on the guns which inflicted the fatal wounds..."?

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OPINIONS BELOW

The opinions and judgments of the Supreme Court of Arizona sought to be reviewed are not yet officially reported, but they are reproduced in the Appendix attached to this petition. The opinion in the case of petitioner Ricky Wayne Tison is reproduced as Appendix Exhibit A(1a). The judgment in the case of petitioner Ricky Wayne Tison is reproduced as Appendix Exhibit E (87a). The opinion in the case of petitioner Raymond Curtis Tison is reproduced as Appendix Exhibit B(36a). The judgment in the case of petitioner Raymond Curtis Tison is reproduced as Appendix Exhibit G(90a).

JURISDICTION OF THE SUPREME COURT

Petitioner Ricky Tison was convicted of murder, kidnapping, robbery, and theft of a motor vehicle in the Superior Court of Yuma County, Arizona, on February 27, 1979. Petitioner Raymond Tison was convicted of the same crimes in the Superior Court of Yuma County, Arizona, on March 6, 1979. Petitioners were both sentenced to death for the murders and to prison terms for the remaining crimes on March 29, 1979. (67a-69a).

On July 9, 1981, the Supreme Court of Arizona affirmed Ricky Tison's convictions and sentences. (87a). On the same day, the Court affirmed Raymond Tison's convictions and sentences. (90a). Timely petitions for rehearing submitted by both petitioners were denied on September 10, 1981, (89a, 92a), and this joint petition for writs of certiorari was filed within 60 days of that date.

Petitioners asserted below and assert here a deprivation of their rights as guaranteed by the United States Constitution. This Court's jurisdiction is invoked under Title 28, United States Code, Section 1257(3).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution:

Amendment VIII:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment XIV, Section 1 to the Constitution of the United States, in part:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

State Statutes

1. Ariz. Code 1939, 43-116, in part, Ariz. Rev. Stat. Ann. §13-139 (1956) (Repealed 1978).

> All persons concerned in the commission of a crime whether it is a felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counseling, advising or encouraging children under the age of fourteen years, lunatics or idiots, to commit a crime, or who, by fraud, contrivance or force, occasion the drunkenness of another for the purpose of causing him to commit a crime, or who by threats, menaces, command or coercion, compel another to commit a crime, are principals in any crime so committed.

2. Laws of 1912, Ch. 35, §25, Ariz. Rev. Stat. Ann. §13-140 (1956) (Repealed 1978).

> All persons concerned in the commission of a crime whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, shall be prosecuted, tried and punished as principals, and no other facts need be alleged in any indictment or information against such a person than are required in an indictment or information against a principal.

3. Ariz. Code of 1939, 43-2901, Ariz. Rev. Stat. Ann. §13-451 (1956) (Repealed 1978).

> A. Murder is the unlawful killing of a human being with malice aforethought.
>
> B. Malice aforethought may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied when no considerable provocation appears or when the circumstances attending the killing show an abandoned and malignant heart.

4. Ariz. Code of 1939, 43-2902, Ariz. Rev. Stat. Ann. §13-452 (Supp. 1957-1978) (Amended 1973) (Repealed 1978).

> A murder which is perpetrated by means of poison or lying in wait, torture or by any other kind of wilful, deliberate or premeditated killing, or which is committed in avoiding or preventing lawful arrest or effecting an escape from legal custody, or in the perpetration of, or attempt to perpetrate, arson, rape in the first degree, robbery, burglary, kidnapping, or mayhem, or sexual molestation of a child under the age of thirteen years, is murder of the first degree. All other kinds of murder are of the second degree. As amended Laws 1973, Ch. 138, §1.

5. Ariz. Code of 1939, 43-2903, Ariz. Rev. Stat. Ann. §13-453 (Supp. 1957-1978) (Amended 1973) (Repealed 1978).

> A. A person guilty of murder in the first degree shall suffer death or imprisonment in the state prison for life, without possibility of parole until the completion of the service of twenty-five calendar years in the state prison, as determined by and in accordance with the procedures provided in §13-454.
>
> B. A person guilty of murder in the second degree shall be punished by imprisonment in the state prison for not less than ten years. As amended Laws 1973, Ch. 138, §2.

6. Laws of 1973, Ch. 138, §5, Ariz. Rev. Stat. Ann. §13-454 (Supp. 1957-1978) (Repealed 1978) is reproduced in the Appendix as Exhibit I at pp. 105a-107a.

NOTE: The preceding statutes were those in effect at the time of the crimes for which petitioners stand convicted. They were then repealed and replaced when Arizona revised its criminal code, effective October 1, 1978.

STATEMENT OF THE CASE

A. Introductory Statement

This petition raises the same constitutional issue on which this Court granted certiorari in Enmund v. Florida, No. 81-532: whether it is constitutional to execute petitioners who were convicted of aiding and abetting a felony murder, but who -- in the words of the Arizona Supreme Court -- "... did not specifically intend that the Lyonses and Theresa Tyson die, ... did not plot in advance that these homicides would take place, or ... did not actually pull the triggers on the guns which inflicted the fatal wounds..." (32a-33a).

B. Statement of Facts

On July 30, 1978, petitioners Ricky Wayne Tison, then age 19, and Raymond Curtis Tison, then age 18, went with their older brother Donald to visit their father, Gary Tison, at the Arizona State Prison. (37a) Gary Tison was serving a life sentence for murder, as was a friend of his, Randy Greenawalt. (2a) Petitioners and their brother entered the prison about 9 a.m. and produced weapons from an ice chest. (37a) They passed a hand gun to Greenawalt, who was a trusty in the control room of that portion of the prison. (37a) The group then locked numerous guards and visitors into a closet, and walked out the front door about 9:30 a.m. (37a) They drove away from the prison parking lot, abandoned their car for a waiting white Lincoln, and drove away on back roads. (2a; Transcript of Trial of Ricky Wayne Tison, hereinafter cited as "Ricky's Tr.", 2/22/79, p. 462).

The evidence tended to show that the car in which the men were riding had a flat tire the night after the escape, and

that the men flagged down the next car which drove by in the early morning hours of August 1. (3a) The car was an orange Mazda driven by John Lyons. His wife, their two-year-old child, and their teenage niece, Theresa Tyson, were with him. (2a) When the car stopped, guns were drawn by the Tisons and Greenawalt, and both cars were driven several miles down a dirt road off the main highway. (3a; Ricky's Tr. 2/22/79, p. 463). The vehicles were then parked trunk to trunk, and the Tisons' possessions were put in the Mazda. (3a, Ricky's Tr. 2/22/79, p. 463). The Lyons' possessions were then put in the Lincoln, and John Lyons' money and weapons were taken. (3a; Ricky's Tr. 2/22/79, p. 478, Ricky's Tr. 2/21/79, p. 218). The Lincoln was then driven a little further into the desert. (3a; Ricky's Tr. 2/22/79, p. 463). Gary Tison and Greenawalt shot some holes in the Lincoln, and the Lyons and Theresa Tyson were placed in it. (Ricky's Tr. 2/22/79, p. 463). Gary then sent petitioners back to the Mazda for some water (Id.) Upon their return, Randy Greenawalt and Gary Tison shot the victims. (3a; Ricky's Tr. 2/22/79, pp. 463-64).

Gary Tison, Greenawalt, petitioners, and their brother Donald then drove away in the Mazda (4a). Petitioners later helped to purchase spray paint which was used to disguise the car. (4a; 48a). After a few days the Mazda was abandoned near Flagstaff, Arizona, and was replaced by a Chevrolet pick-up obtained through a friend of Randy Greenawalt's. (4a; 49a; Ricky's Tr. 2/21/79, pp. 302, 314).

They then drove to Colorado. While they were there, a young couple, James and Margene Judge, were murdered. (Joint Sentencing Hearing, 3/14/79, pp. 12-13). The group was in the Judges' van when apprehended. (2a; 38a; Joint Sentencing Hearing, 3/14/79, pp. 11-12). However, there was no evidence

that Ricky or Raymond played any part in the Judges' murder and neither has been tried for them.

Around 3:00 in the morning of August 11, the men came to a roadblock near Casa Grande, Arizona. The van slowed down and then accelerated through the roadblock. (2a, 74a). Shots were fired and two police cars chased the van to a second roadblock. (74a). Officers fired at the van as it ran the second roadblock and came to a stop in the desert. (2a, 74a). In the driver's seat the officers found Donald Tison, who has been shot in the head and later died of the wounds. (3a, 74a). The police found petitioners and Randy Greenawalt nearby in the desert. Gary Tison was found dead in the desert several days later. (3a, 74a).

Petitioners were tried jointly with Greenawalt in Pinal County, Arizona, for crimes occurring at the prison and the roadblock. They were each convicted of seventeen counts of assault with a deadly weapon, and one count each of aiding and assisting an escape, possession of a stolen motor vehicle, and unlawful flight from a pursuing law enforcement vehicle. In addition, Ricky Tison was convicted of taking prohibited articles into prison. (74a) Petitioners were given concurrent sentences of 30 years to life for each of the assaults. They were given sentences of four to five years for each of the other offenses, to be served concurrently with each other but consecutively to the assault sentences. (75a) The convictions and sentences were affirmed by the Arizona Supreme Court in State v. Greenawalt, et. al., 128 Ariz. 388, 626 P.2d 118 (1981), cert. den. ____ U.S. ____ (1981). The opinion is attached as Exhibit D of the Appendix.

Petitioner Ricky Tison was tried for and convicted of murder, kidnapping, robbery, and theft of a motor vehicle in Yuma

County, Arizona. Petitioner Raymond Tison was convicted of the same crimes in a trial immediately following Ricky's.[1] Petitioners then underwent a joint sentencing hearing before the trial judge. He sentenced them to death for the murders and to prison terms for the remaining crimes (67a-69a). Accompanying the sentence was a special verdict required by Arizona law containing the aggravating and mitigating circumstances found by the judge in imposing the sentences of death. (59a-65a, 105a). The aggravating circumstances found that pertained to the nature of the crime were precisely those found by the same judge when he sentenced Randy Greenawalt to death.

The Supreme Court of Arizona affirmed both petitioners' convictions and sentences. State v. Ricky Wayne Tison, No. 4612 (Ariz., filed July 9, 1981), attached as Exhibit A of the Appendix; State v. Raymond Curtis Tison, No. 4624 (Ariz., filed July 9, 1981), attached as Exhibit B of the Appendix. These judgements are those petitioners now seek to have reviewed by this Court.

C. How The Federal Constitutional Issues Were Raised and Decided Below

The issue of whether the death penalty is disproportionate under the Eighth Amendment to the United States Constitution for someone convicted of murder on a theory of vicarious liability was raised in a presentencing memorandum to the trial judge by petitioner Ricky Tison's attorney. (96a-104a). Petitioner Raymond Tison's attorney joined in the memorandum. (57a-58a). The trial judge resolved the issue by sentencing

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[1] Randy Greenwalt was also convicted of murder, armed robbery, kidnapping, and theft of a motor vehicle. He was sentenced to death for the murders and given prison sentences for the other offenses. His convictions and sentences were affirmed by the Arizona Supreme Court in State v. Greenwalt, 128 Ariz. 150, 624 P. 2d 828 (1981), cert. den. ___ U.S. ___, 50 S.L.W 3250 (1981).

petitioners to death while recognizing that they had been convicted under felony murder instructions. (64a, 69a). The issue was raised on appeal by both petitioners (Brief for Appellant, State v. Ricky Wayne Tison, No. 4612 (Ariz. July 9, 1981) pp. 93-97; Brief for Appellant, State v. Raymond Curtis Tison, No. 4624 (Ariz. July 9, 1981, pp. 88-92) and presented at length during the oral argument. The Arizona Supreme Court decided the issue adversely to both petitioners. (32a-33a, 40a).

REASONS FOR GRANTING THE WRIT

This case presents a major Eighth Amendment issue left open by Lockett v. Ohio, 438 U.S. 586 (1978), and presented by Enmund v. Florida, No. 81-5231; is it constitutional for the State to execute a person who concededly neither killed the victim nor intended the death of the victim?

Ricky and Raymond Tison have been convicted of murder under a combination of felony murder and vicarious liability rules. It is undisputed that they did not fire the fatal shots, intend the fatal results, or control the fatal events. Yet the Arizona Supreme Court has affirmed their sentences of death, stating "that they did not specifically intend that the Lyonses and Theresa Tyson die, that they did not plot in advance that these homicides would take place, or that they did not actually pull the triggers on the guns which inflicted the fatal wounds is of little significance." 32a-33a. Thus, this case squarely presents the issue left open by Lockett v. Ohio, 438 U.S. 586 (1978): whether "the death penalty is constitutionally disproportionate for one who has not been proven to have taken life, to have attempted to take life, or to have intended to take life". Id. at 609 n. 16. This Court has granted certiorari on this issue in Enmund v. Florida, 81-5321.

The Arizona court found it sufficient that Ricky and Raymond had "associated themselves with others who were willing to and had in the past committed savage, homicidal acts...", although one of the two "others" was their father; that the homicides "occurred as part of and in the course of the escape and continuous attempt to prevent recapture"; and that they

"stood by, armed with guns, while their companions slaughtered the Lyonses and Theresa Tyson." Lack of intent or participation in the actual killings were deemed "of little significance." Petitioners ask this Court to grant certiorari to decide whether a State must consider what a man did and what he meant to do before sentencing him to "the unique and irreversible penalty of death." Woodson v. North Carolina, 428 U.S. 280, 287 (1976) (footnote omitted).

If certiorari is granted, petitioners will provide this Court with a thorough argument, based on the Anglo-American history of the felony murder and aiding and abetting rules, against the application of the death penalty to the circumstances presented by this case.

They will argue that the sentences of death imposed on Ricky and Raymond Tison by the State of Arizona violate two separate but intertwined principles set forth by this Court. The first is that" ... in capital cases the fundamental respect for humanity underlying the Eighth Amendment ... requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death." Id. at 304 (emphasis added). See also Lockett v. Ohio, supra, 438 U.S. at 605 ("Given that the imposition of death by public authority is so profoundly different from all other penalties, we cannot avoid the conclusion that an individualized decision is essential in capital cases.") (emphasis added). Petitioners will argue that the opposite of individualized sentencing occurred in their cases. Ricky and Raymond Tison were convicted of murder under felony murder and vicarious liability rules. At the ensuing sentencing hearing, the judge was supposed to consider what particular statutory aggravating and mitigating

factors pertained to each of them, for the statute requires the judge to consider what "the defendant" has done. (106a-107a). However, the judge focused on aggravating circumstances which pertained to the actions of the actual killers, such as the heinousness of the murders and the fact that they were done for pecuniary gain, and applied them to Ricky and Raymond. (59a-61a). In reality, the trial court determined a sentence appropriate for the actions of Gary Tison and Randy Greenawalt and then imposed the penalty on Ricky and Raymond. Whether or not permissible in non-capital cases, petitioners will argue that such transferred culpability is inconsistent with Eighth Amendment standards for imposing "this most irrevocable of sanctions." Gregg v. Georgia, 428 U.S. 153, 182 (1976).

Moreover, the sentencing court's finding that petitioners have not satisfied their burden of proving that their role in the killings was "relatively minor" (63a-64a) raises important questions concerning the burden of proof on mitigating and aggravating factors at a capital sentencing hearing. If the petition for a writ of certiorari is granted, petitioners will argue that the Constitution requires the State to bear the burden of establishing that the defendant's role in the crime was sufficiently great to warrant the death penalty. They will contend that the State may not properly shift the burden to the defendants by requiring them to prove that their role was relatively minor.

Petitioners will argue that the second principle violated by Ricky's and Raymond's death sentences is that in capital cases the sentence cannot be "grossly out of proportion to the severity of the crime." Coker v. Georgia, 433 U.S. 584, 592 (1977). As noted above, this Court in Lockett explicitly reserved the question of whether death is a disproportionate

punishment for one not proven to have actually killed or intended death. However, the Court's opinions, both prior and subsequent to Lockett, have strongly implied that the penalty of death would be unconstitutionally disproportionate for one who has not himself killed or intended to kill. In Gregg v. Georgia, supra, 428 U.S. at 187, the Court stated that "...when a life has been taken deliberately by the offender, we cannot say that the punishment is invariably disproportionate to the crime." (footnote omitted) (emphasis added). In Coker v. Georgia, supra, the Court held that the death penalty "... is an excessive penalty for the rapist who, as such, does not take human life." Id. at 598 (emphasis added). In Lockett itself, the Court held that the sentencing authority cannot be precluded from considering any relevant mitigating factor and specifically identified "the absence of direct proof that the defendant intended to cause the death of the victim" and "the defendant's comparatively minor role in the offense" as factors the unconstitutional sentencing procedure had excluded from consideration. Lockett v. Ohio, supra, 438 U.S. at 608. Finally, in Green v. Georgia, 442 U.S. 95 (1979), the Court vacated a death sentence because evidence that the petitioner himself had not participated in the murder had been excluded as hearsay. The Court termed this evidence "... highly relevant to a critical issue in the punishment phase of the trial ..." Id. at 97 (emphasis added).

In Lockett, three of the Justices dealt directly with the operation of the disproportionality principle in such circumstances. Justice White concluded that "the infliction of death upon those who had no intent to bring about the death of the victim is not only grossly out of proportion to the severity of the crime but also fails to significantly contribute to acceptable, or, indeed, any perceptible goals of punishment."

Id. at 626. Therefore petitioners will argue that "... death may not be inflicted for killings consistent with the Eighth Amendment without finding that the defendant engaged in conduct with the conscious purpose of producing death ...." Id. at 628.

Justice Marshall agreed. "... [T]his 21-year old Negro woman was sentenced to death for a killing that she did not actually commit or intend to commit. ... The imposition of the death penalty for this crime totally violates the principle of proportionality embodied in the Eighth Amendment's prohibition." [citation omitted]. Id. at 620. Justice Blackmun, while preferring a "proceduralist tack", id. at 615, stated that "[i]t might be that to inflict the death penalty in some such situations would skirt the limits of the Eighth Amendment proscription, incorporated in the Fourteenth Amendment, against gross disproportionality. ..." Id. at 613-614. Ricky and Raymond Tison's cases do not merely skirt, but in fact far exceed these limits. Sandra Lockett's death sentence was vacated, although she "suggested ... robbing a grocery store and a furniture store" and warned that since the grocery store operator was a "big guy" who was armed, "they would have 'to get him real quick.'" She also volunteered to get a gun from her father's basement to aid in carrying out the robberies. Id. at 590. Subsequently, when these plans fell through, she "guided the others to a pawnshop," "agreed to proceed," and "... waited with the engine running." Id. After the murder, "she took the gun from the pawn shop and put it in her purse," later "placed the gun under the front seat," and hid two coparticipants in her attic. Id. at 590-591.

Ricky and Raymond Tison's lives are at stake, which of itself makes this issue a vital one for this Court to consider. However, the principle at stake will affect many other lives. No

one who has not personally committed a murder has been executed in this nation for twenty-six years. Id. at 624-625. (White, J., dissenting in part and concurring in the judgment). However, as of the date of the Lockett opinion, "...approximately half of the states ha[d] not legislatively foreclosed the possibility of imposing the death penalty upon those who do not intend to cause death." Id. This issue needs to be decided by this Court not only for Ricky and Raymond Tison, but for those in like circumstances whose cases may never be brought before this Court.

CONCLUSION

For the reasons stated above, Petitioners request that this Court grant their joint petition for writs of certiorari.

Respectfully submitted this the 27th day of October, 1981.

By: _____

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Counsel to Petitioners

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Petitioner

v.

STATE OF ARIZONA,

Respondent

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The petitioner, Raymond Curtis Tison, who is now held in the Arizona State Prison, hereby asks leave of this Honorable Court to file the attached Petition for a Writ of Certiorari to the Supreme Court of Arizona without prepayment of costs and to proceed in forma pauperis pursuant to Rule 46.

In support of this Motion, please find attached:

(1) A copy of Petitioner's Affidavit of Poverty, dated May 29, 1981, that accompanied a related case involving convictions not now before this Court;

(2) Counsel's Affidavit stating that, to the best of his knowledge and belief, petitioner's financial circumstances have not changed since petitioner signed the attached affidavit.

Because petitioner is in prison in Arizona and petitioner's attorneys are in Boston, it has been impossible for petitioner's attorneys to obtain a new affidavit of poverty in time for it to be filed with the accompanying petition. If necessary, a

new affidavit will be obtained and sent to this Court as soon as possible.

By _____

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Counsel for Petitioner

AFFIDAVIT OF POVERTY

STATE OF ARIZONA)
:ss.
County of Pinal)

I, Raymond Curtis Tison, being first duly sworn, depose and say that I am one of the Petitioners in the above entitled cause and I am a citizen of The United State; that in support of my motion to proceed with a Petition for Writ of Certiorari in The Supreme Court of The United States from The Judgment of The Supreme Court of The State of Arizona without being required to prepay fees, costs, or give security thereof, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefore; that I believe that I am entitled to redress, and that the issues which I desire to present on appeal are as follows:

I.

Did the totality of the circumstances indicate that the petitioners were denied due process of law in the jury selection process because of pretrial publicity?

II.

Were the petitioners denied due process of law in the jury selection process because the trial court seated jurors who held firm opinions that the petitioners were guilty of both the charges under consideration and other henious crimes not charged?

Further, I am presently in custody at The Arizona State Prison, Florence, Arizona, under the judgment and sentence of The Superior Court of Arizona in and for The County of Pinal, State of Arizona; that I have been in continuous custody since August 1978 when I was first arrested on this charge.

I have, during these almost three years of incarceration, received no income. I do not have any business, profession or other source of income at the present time. I do not own any cash other than small amounts provided to me by my relatives for spending; I do not have any money in checking or savings accounts, securities or other valuable property.

I do not have an interest in any real property. I have been represented by court appointed counsel from the date of my arrest.

I further believe in good faith that I am entitled to the relief I am seeking, understanding that a false statement in this Affidavit will subject me to penalties for perjury and I further swear that the responses which I have made in this Affidavit relating to my ability to pay the costs of prosecuting the Petition for Writ of Certiorari are true and correct. I therefore request leave to prosecute the proposed Petition for Writ of Certiorari in forma pauperis.

Raymond Curtis Tison

RAYMOND CURTIS TISON, being first duly sworn on his oath, presents that he has subscribed to the above and that the information contained therein is true and correct to the best of his knowledge and belief.

RAYMOND CURTIS TISON

Subscribed and sworn before me this 27th day of July, 1981.

Notary Public

My Commission Expires:

_____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

RICKY WAYNE TISON and
RAYMOND CURTIS TISON,

Petitioners

v.

STATE OF ARIZONA,

Respondent

AFFIDAVIT OF ALAN M. DERSHOWITZ

Commonwealth of Massachusetts, ss.)
Middlesex County)

AFFIDAVIT

1. I am a member of the Supreme Court bar an am representing the petitioners in the instant petition and motion.

2. I have read petitioners affidavits of poverty prepared for submission with a prior petition involving a different conviction. I am aware of no change in their financial situation since that time.

Alan M. Dershowitz
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(617) 661-1965

Sworn to and subscribed before me this 26th day of October, 1981.

Notary Public
My Commission expires 3/15/86